



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of M.A.S., Police Officer  
(S9999R), City of Jersey City

CSC Docket No. 2017-2220

Acknowledgment of Settlement

**ISSUED: SEPTEMBER 7, 2018 (DASV)**

M.A.S., represented by Corey M. Sargeant, Esq., and the City of Jersey City, represented by James B. Johnston, Assistant Corporation Counsel, petition the Civil Service Commission (Commission) for acknowledgment of the attached settlement agreement reached by the parties, which provides for M.A.S.’ restoration to the Police Officer (S9999R), City of Jersey City, eligible list and appointment effective December 1, 2016.

By way of background, M.A.S. appeared on the Police Officer (S9999R), City of Jersey City, eligible list which promulgated on May 2, 2014 and expired on March 22, 2017. M.A.S. was certified to the appointing authority on April 1, 2016. In disposing of the certification, the appointing authority removed M.A.S.’ name on the basis that he was not psychologically fit to perform effectively the duties of the position. In support of the removal, the appointing authority submitted a report from its psychological evaluator who did not recommend M.A.S.’ appointment. Upon disposition of the certification, on January 17, 2017, M.A.S. appealed to the Commission and submitted a report from a licensed psychiatrist, who evaluated M.A.S. and stated that there was “no reason why [M.A.S.] should not be hired as a policeman.” In consideration of the competing recommendations, the matter was scheduled for review by the Medical Review Panel (Panel) at its February 23, 2018 meeting. However, the appellant’s attorney advised that the parties had agreed to settle matter and would forward the executed agreement to the Commission. Thus, M.A.S.’ meeting with the Panel was adjourned. The parties submitted the attached settlement agreement, which provides for M.A.S.’ restoration to the subject eligible list and his retroactive date of appointment to Police Officer effective December 1,

2016. Additionally, M.A.S. agreed not to seek back pay, counsel fees, or salary-step placement based on the December 1, 2016 appointment date. It is noted that although the settlement agreement was signed in June 2017, the appointing authority and M.A.S. did not present a fully executed copy of the agreement until August 6, 2018 and August 9, 2018, respectively, despite prior requests from this agency to do so. It is further noted that the appointment of the eligible ranked 305 on the April 1, 2016 certification was the last appointment and the appointment was effective December 1, 2016. M.A.S. ranked 306 on the certification and actually commenced employment with the City of Jersey City as a Police Officer effective July 12, 2017.

## CONCLUSION

*N.J.A.C.* 4A:4-3.4 states that the Commission may revive an expired eligible list under the following circumstances: 1. to implement a court order, in a suit filed prior to the expiration of the list; 2. to implement an order of the Commission in an appeal or proceeding instituted during the life of the list; 3. to correct an administrative error; 4. to effect the appointment of an eligible whose working test period was terminated by a layoff; or 5. for other good cause. Further, *N.J.A.C.* 4A:4-4.9(a)2 states in relevant part that an eligible shall not be appointed and begin work after the expiration date of the eligible list except when there is limited revival or statutory extension of an employment list, except that no appointment shall be made beyond the statutory extension date.

In the instant matter, the parties have reached a settlement concerning M.A.S.' eligibility for appointment as a Police Officer. The policy of the judicial system strongly favors settlement. *See Nolan v. Lee Ho*, 120 *N.J.* 465 (1990); *Honeywell v. Bubb*, 130 *N.J. Super.* 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 *N.J. Super.* 472 (App. Div. 1961), *cert. denied*, 35 *N.J.* 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. *See Nolan, supra.* A review of the settlement agreement in this matter finds that no such compelling circumstance exist. Moreover, in light of the fact that the parties have amicably resolved their differences, M.A.S. was the next reachable eligible for appointment on the subject certification, and he has provided an opinion from a licensed psychiatrist of his psychological fitness for the position, the Commission finds good cause to revive the Police Officer (S9999R), City of Jersey City, eligible list pursuant to *N.J.A.C.* 4A:4-3.4 and restore M.A.S.' name for appointment, effective December 31, 2016, pursuant to *N.J.A.C.* 4A:4-4.9(a)1, for seniority purposes only.<sup>1</sup> Accordingly, the Commission finds a sufficient basis to acknowledge the settlement agreement between the parties.

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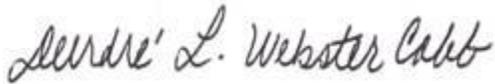
<sup>1</sup> However, seniority for examination eligibility is calculated upon actual commencement of employment in a position.

**ORDER**

Therefore, the Commission acknowledges the subject settlement agreement and orders that the Police Officer (S9999R), City of Jersey City, eligible list be revived and M.A.S. be restored to the April 1, 2016 certification and recorded as appointed effective December 1, 2016.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 5<sup>TH</sup> DAY OF SEPTEMBER, 2018



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Attachment

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